

85th Legislative Session – 2010

Committee: Senate Local Government

Wednesday, March 03, 2010

P - Present
E - Excused
A - Absent

Roll Call

P Gillespie
P Kloucek
P Miles
P Schmidt
P Tieszen
P Bradford, Vice-Chair
P Gant, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Senator Gant.

MOTION: TO APPROVE THE MINUTES OF WEDNESDAY, FEBRUARY 24, 2010

Moved by: Kloucek
Second by: Tieszen
Action: Prevailed by voice vote.

HB 1086: permit certain municipalities to issue an additional off-sale alcoholic beverage license.

Presented by: Representative Mike Verchio

MOTION: DO PASS HB 1086

Moved by: Tieszen
Second by: Schmidt
Action: Failed by roll call vote. (2-4-1-0)

Voting Yes: Schmidt, Tieszen

Voting No: Gillespie, Kloucek, Miles, Gant

Excused: Bradford

MOTION: DEFER HB 1086 TO THE 41ST LEGISLATIVE DAY

Moved by: Tieszen

Second by: Miles

Action: Prevailed by roll call vote. (6-0-1-0)

Voting Yes: Gillespie, Kloucek, Miles, Schmidt, Tieszen, Gant

Excused: Bradford

HB 1053: revise certain provisions concerning campaign finance.

Presented by: Chris Nelson, Secretary of State

MOTION: AMEND HB 1053

1053ta

On page 3, after line 17 of the printed bill, insert:

" Section 4. That subdivision (11) of § 12-27-1 be amended to read as follows:

- (11) "Independent expenditure," an expenditure, including the payment of money or exchange of other valuable consideration or promise, made by a person, organization, political committee, or political party to expressly advocate the election or defeat of a clearly identified candidate or the placement of a ballot question on the ballot or the adoption or defeat of any ballot question, but which is not made to, controlled by, coordinated with, requested by, or made upon consultation with a candidate, political committee, or agent of a candidate or political committee. The term does not include administration and solicitation of any contribution for a political action committee established by an organization and associated expenses, nor the use of an organization's real or personal property located on its business premises for such purposes. The term does not include any communication by a person made in the regular course and scope of the person's business or ministry or any communication made by a membership organization solely to any member of the organization and the member's family;

Section 5. That subdivision (22) of § 12-27-1 be amended to read as follows:

(22) ~~"Qualified nonprofit corporation," any nonprofit corporation, subject to the provisions of chapters 47-22 to 47-28, inclusive, that was organized for the purpose of promoting political ideas and cannot engage in business activities, has no shareholders or other persons affiliated so as to have a claim on the assets or earnings, was not established by a corporation, and has not accepted more than de minimus amount of funds from any corporation~~ "Recognized business entity," any:

- (a) Domestic corporation, limited liability company, nonprofit corporation, limited liability partnership, or cooperative duly registered with the secretary of state as of the first day of January of the current calendar year, and which is currently in good standing;
- (b) Foreign corporation, limited liability company, nonprofit corporation, limited liability partnership, or cooperative duly registered with the secretary of state as of the first day of January of the current calendar year, and which is currently in good standing; or
- (c) Entity organized in a corporate form under federal law.

A political committee or political party is not a recognized business entity. An organization which was established by or is controlled, in whole or in part, by a candidate, political committee, or agent of a candidate or political committee is not a recognized business entity;

Section 6. That § 12-27-16 be amended to read as follows:

12-27-16. The following apply to independent expenditures by individuals and organizations related to communications advocating for or against candidates, public office holders, ballot questions, or political parties, and expenditures by individuals and organizations within sixty days of an election that clearly identify a candidate or public office holder but do not expressly advocate the election of the candidate or public office holder:

- (1) Any person or ~~qualified nonprofit corporation~~ organization that makes an independent expenditure for a communication which expressly advocates for or against a candidate, public office holder, ballot question, or political party ~~totaling one thousand dollars or more shall file a statement with the secretary of state that is received within forty-eight hours of the time that the communication is disseminated, broadcast, or otherwise published.~~

—Any organization that makes an independent expenditure for a communication which expressly advocates for or against a public office holder, ballot question, or political party totaling one thousand dollars or more shall file a statement with the secretary of state that is received within forty-eight hours of the time that the communication is disseminated, broadcast, or otherwise published. , regardless of the amount of the expenditure, shall append to or include in each communication a disclaimer that clearly and forthrightly:

- (a) Identifies the person or organization making the independent expenditure for that communication;
- (b) States the address or website address of the person or organization; and
- (c) States that the communication is independently funded and not made in consultation with any candidate, party, or political committee.

A violation of this subdivision is a Class 1 misdemeanor;

- (2) Any person or organization that makes an expenditure, including the payment of money or exchange of other valuable consideration or promise, for a communication that clearly identifies a candidate or public office holder, but does not expressly advocate the election or defeat of the candidate or public office holder, and that is disseminated, broadcast, or otherwise published within sixty days of an election shall append to or include in the communication a disclaimer that clearly and forthrightly:

- (a) Identifies the person or organization making the expenditure for that communication; and
- (b) States the address or website address of the person or organization.

A violation of this subdivision is a Class 1 misdemeanor;

- (3) Any organization which is not a recognized business entity and which makes an expenditure for a communication described in subdivision (1) or (2) shall file a statement within forty-eight hours of the time that the communication is disseminated, broadcast, or otherwise published;
- (4) Any person or recognized business entity that makes expenditures in excess of two thousand dollars during any calendar year for communications described in subdivision (1) or (2) shall file a statement with the secretary of state that is received within forty-eight hours of the time that the person's or organization's expenditures exceed two thousand dollars, and thereafter, within forty-eight hours of the time that any such subsequent communication is disseminated, broadcast, or otherwise published during the remainder of that calendar year;
- (5) The ~~statement~~ statements required by this section shall include the name, street address, city, and state of the person, ~~qualified nonprofit corporation~~, or organization and ~~its street address, city, and state~~, for any expenditures made for communications described in subdivision (1) or (2) during that calendar year but not yet reported on a prior statement, the name of each candidate, public office holder, ballot question, or political party mentioned or identified in the each communication, the amount spent on the each communication, and a description of the content of the each communication.

— Further, if the independent expenditure is made by For an organization, the statement shall also include the name and title of the person filing the report, the name of its chief executive, if any, and the name of the person who authorized the expenditures on behalf of the organization;

- (6) For an organization whose majority ownership is owned by, controlled by, held for the benefit of, or comprised of ~~twenty~~ thirty or fewer persons, partners, owners, trustees, beneficiaries, participants, members, or shareholders, the statement shall ~~include the identify by name and address of each person, partner, owner, trustee, beneficiary, participant, shareholder, or member who owns, controls, or comprises~~ ten percent or more

of the organization;

- (7) An organization shall also provide supplemental statements for any of its partners, owners, trustees, beneficiaries, participants, members, or shareholders identified pursuant to subdivision (6) which are owned by, controlled by, held for the benefit of, or comprised of thirty or fewer persons, partners, owners, trustees, beneficiaries, participants, members, or shareholders, until no organization identified in the supplemental statements meets the ownership test set forth in subdivision (6):
- (8) For the purposes of this section, the term, communication, does not include:
- (1)(a) Any news articles, editorial endorsements, opinion, or commentary writings, or letter to the editor printed in a newspaper, magazine, flyer, pamphlet, or other periodical not owned or controlled by a candidate, political committee, or political party;
 - (2)(b) Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate, political committee, or political party;
 - (3)(c) Any communication by a person made in the regular course and scope of the person's business or ministry or any communication made by a membership organization solely to members of the organization and the members' families; and
 - (4)(d) Any communication that refers to any candidate only as part of the popular name of a bill or statute.

Section 7. That § 12-27-17 be amended to read as follows:

12-27-17. Any ~~person~~, political committee, or political party, ~~or organization~~ that makes a payment or promise of payment totaling one thousand dollars or more for a communication that clearly identifies a candidate or public office holder, but does not expressly advocate the election or defeat of the candidate or public office holder, and that is disseminated, broadcast, or otherwise published within sixty days of an election, shall file a statement with the secretary of state disclosing the name, street address, city, and state of such ~~person~~, political committee, or political party, ~~or organization~~. The statement shall also include the name of the candidate or public office holder mentioned in the communication, the amount spent on the communication, and a description of the content of the communication. The statement shall be received and filed within forty-eight hours of the time that the communication is disseminated, broadcast, or otherwise published.

For the purposes of this section, the term, communication, does not include:

- (1) Any news articles, editorial endorsements, opinion or commentary writings, or letter to the editor printed in a newspaper, magazine, flyer, pamphlet, or other periodical not owned or controlled by a candidate, political committee, or political party;
- (2) Any editorial endorsements or opinions aired by a broadcast facility not owned or controlled by a candidate, political committee, or political party;
- (3) Any communication by a person made in the regular course and scope of the person's business or ministry or any communication made by a membership organization solely to members of the organization and the members' families; and
- (4) Any communication that refers to any candidate only as part of the popular name of a bill

or statute.

Section 8. That § 12-27-18 be amended to read as follows:

12-27-18. No organization may make a contribution to a candidate committee, political action committee, or political party ~~or make an independent expenditure expressly advocating the election or defeat of a candidate.~~ An organization may make a contribution to a ballot question committee organized solely for the purpose of influencing an election on a ballot question and independent expenditures regarding the placement of a ballot question on the ballot or the adoption or defeat of a ballot question. Any organization making expenditures, equal to or exceeding fifty percent of the organization's annual gross income, for the adoption or defeat of a ballot measure is a ballot question committee. ~~The prohibitions of this section do not apply to independent expenditures expressly advocating the election or defeat of a candidate by a qualified nonprofit corporation from its treasury funds.~~ An organization may create a political action committee. A violation of this section is a Class 1 misdemeanor."

Moved by: Schmidt
Second by: Tieszen
Action: Prevailed by voice vote.

MOTION: DO PASS HB 1053 AS AMENDED

Moved by: Gillespie
Second by: Miles
Action: Prevailed by roll call vote. (7-0-0-0)

Voting Yes: Gillespie, Kloucek, Miles, Schmidt, Tieszen, Bradford, Gant

HB 1054: provide independent voters voting absentee the appropriate ballot during a primary election and to declare an emergency.

Presented by: Chris Nelson, Secretary of State

MOTION: DO PASS HB 1054

Moved by: Tieszen
Second by: Kloucek
Action: Prevailed by roll call vote. (6-0-1-0)

Voting Yes: Kloucek, Miles, Schmidt, Tieszen, Bradford, Gant

Excused: Gillespie

HB 1072: provide for the election of a vice chair for county commissions.

Presented by: Senator Julie Bartling

Proponents: Bob Wilcox, SD Association of County Commissioners

MOTION: DO PASS HB 1072

Moved by: Tieszen

Second by: Kloucek

Action: Prevailed by roll call vote. (6-0-1-0)

Voting Yes: Kloucek, Miles, Schmidt, Tieszen, Bradford, Gant

Excused: Gillespie

MOTION: PLACE HB 1072 ON CONSENT CALENDAR

Moved by: Kloucek

Second by: Tieszen

Action: Prevailed by voice vote.

HB 1091: revise certain provisions related to municipal elections in the case of death or withdrawal of a candidate.

Presented by: Yvonne Taylor, SD Municipal League

MOTION: DO PASS HB 1091

Moved by: Kloucek

Second by: Miles

Action: Prevailed by roll call vote. (7-0-0-0)

Voting Yes: Gillespie, Kloucek, Miles, Schmidt, Tieszen, Bradford, Gant

MOTION: PLACE HB 1091 ON CONSENT CALENDAR

Moved by: Kloucek

Second by: Tieszen

Action: Prevailed by voice vote.

HB 1214: allow for the acquisition of the fee ownership of highway right-of way land for certain local governments.

Presented by: Senator Bob Gray
Proponents: Lorin Pankratz, SD County Commissioners

MOTION: DO PASS HB 1214

Moved by: Bradford
Second by: Tieszen
Action: Prevailed by roll call vote. (7-0-0-0)

Voting Yes: Gillespie, Kloucek, Miles, Schmidt, Tieszen, Bradford, Gant

HB 1227: permit townships to provide certain health, life, and disability income insurance benefits.

Presented by: Representative Darrell Solberg
Proponents: Dick Howard, SD Association of Towns & Townships
Angela Ehlers, SD Association of Conservation Districts

MOTION: DEFER HB 1227 TO THE 41ST LEGISLATIVE DAY

Moved by: Gillespie
Second by: Kloucek
Action: Prevailed by roll call vote. (4-3-0-0)

Voting Yes: Gillespie, Kloucek, Miles, Schmidt

Voting No: Tieszen, Bradford, Gant

HB 1172: repeal certain provisions requiring the approval of the planning commission for the construction of utilities and public facilities.

Presented by: Senator Tom Hansen
Proponents: Greg Dean, SD Telecommunications Association
Yvonne Taylor, SD Municipal League
Jeff Carmon, Qwest Communications

MOTION: DO PASS HB 1172

Moved by: Gillespie

Second by: Tieszen
Action: Prevailed by roll call vote. (6-0-1-0)

Voting Yes: Gillespie, Miles, Schmidt, Tieszen, Bradford, Gant

Excused: Kloucek

MOTION: PLACE HB 1172 ON CONSENT CALENDAR

Moved by: Gillespie
Second by: Tieszen
Action: Prevailed by voice vote.

MOTION: ADJOURN

Moved by: Miles
Second by: Gillespie
Action: Prevailed by voice vote.

Joshua Klumb
Committee Secretary

Jason M. Gant, Chair